EXHIBIT 27

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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COMMERCIAL RISK REINSURANCE COMPANY LTD.,

Plaintiff,

v. 07 Civ. 2772 (VM)

SECURITY INSURANCE COMPANY OF HARTFORD,

Defendant.

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April 9, 2007
5:17 p.m.

Before:

HON. VICTOR MARRERO,

District Judge

APPEARANCES

D'AMATO & LYNCH
Attorneys for Plaintiff
BY: JOHN P. HIGGINS
EDWARD ROTH
JOHN MUCCIFORI

STROOCK & STROOCK & LAVAN, L.L.P.
Attorneys for Defendant
BY: REGAN A. SHULMAN
MICHELE L. JACOBSON

(Case called)

THE COURT: This is a proceeding in the matter of Commercial Risk Reinsurance Company Limited, and others, vers Security Insurance Company of Hartford, docket number 07 Civil 27. I was reading, perhaps this is a typo, but it says 07 civil 2722. The appearance sheet that the parties have signed says that it is 07 civil 2772, so it is one or the other.

The plaintiff's submission in support of its motion is docketed as 07 civil 2772.

MR. ROTH: Your Honor, the order to show cause that your Honor signed has 2772, although it is in my handwriting I do believe that is the number that was assigned by the Court.

THE COURT: Be that as it may, whatever the number is, is simple to verify, but at least we don't have the parties wrong.

Now, the matter is here on the plaintiff's motion for a preliminary injunction. The underlying dispute arises from an arbitration proceeding in which an arbitrator issued an award and the defendants are seeking to draw down upon some related letter of credit in order to satisfy the arbitration award. The plaintiffs are seeking to prevent the defendants from drawing down on that letter of credit.

Why don't we just briefly go over the ground rules as to how much time we need for this argument. It is late in the day, as you know. We accommodated this request because the

Court has a trial through the balance of this week and this is the only time that we could do on the short schedule that the parties indicated they have before the sky falls.

For the plaintiffs, either Mr. Higgins or Mr. Roth, who speaks?

MR. HIGGINS: I will, your Honor. It is Mr. Higgins.

THE COURT: All right.

MR. HIGGINS: Has the time limit been established? I shouldn't take too long.

THE COURT: Why don't you indicate what you think you need. Let me just indicate that we have received your papers, the original petition, the memoranda from both sides and have reviewed them, so at least we have submission familiarity with the basic issues. You need not go over, in any detail, matters that you already covered.

If there is something that you believe requires additional emphasis or that is not sufficiently covered in the material, perhaps you can concentrate on that.

MR. HIGGINS: Thank you, your Honor.

THE COURT: How much time do you think you need for that purpose?

MR. HIGGINS: No more than 10 minutes.

THE COURT: All right.

Now, Ms. Jacobson or Ms. Shulman, who speaks?

MS. JACOBSON: Ms. Jacobson.

THE COURT: Is 10 minutes sufficient?

MS. JACOBSON: I would say somewhere between 10 and 15.

THE COURT: Why don't we then begin with plaintiffs having an initial 10 minutes.

MR. HIGGINS: Thank you, your Honor. I gather my appearance has been noted?

THE COURT: Yes. We have the notice of appearance that the parties have submitted and the court reporter has a copy of it, so that that will be entered as part of the transcript of this proceeding.

MR. HIGGINS: Thank you.

We would initially like to seek the Court's indulgence in modifying the papers to include an additional letter of credit which was located and disclosed by respondents here. It is letter of credit 91889855 of BNP Peribas in the amount of $638,498.

We apologize for the confusion. Actually, there were at least five and perhaps more letters of credit issued around the same time and this one seemed to get lost in the shuffle.

Two letters of credit were delivered as collateral security in this arbitration to Stroock & Stroock & Lavan under the order of the arbitration panel as a provisional remedy. This is a very odd situation because we're faced now with a circumstance where we are seeking a provisional remedy to

5

protect the integrity of provisional remedy.
We didn't dispute the power of the arbitration panel below to order us to put up the collateral security, but we do dispute the power of the arbitration panel to allow the collateral security to be paid over to the petitioner beneath without first obtaining a confirmation of the award and then having it reduced to a judgment.
Here we have the opposite of what you would normally see, which is a plaintiff trying to protect the status quo by restraining a defendant from running off with the money, so to speak, whereas here we have placed the collateral up and what we are seeking to do is keep it there pending resolution of our motion and pending proceedings in this court to determine whether or not the plaintiff is entitled to the funds. And, if so, they'll be there. The security is going nowhere. And they can draw it down or we may otherwise pay it if need be. But we don't believe the arbitration panel has the authority to enforce its own award, as such.
So, as I said, this is a very unusual circumstance. We found no cases which are on these facts and none were cited on these facts by our opponents.
THE COURT: Mr. Higgins, a question that this issue raised when the Court read the papers in your submission. Under the fact session you state that it is your view that the parties agreed under the treaties to submit any difference of

6

dispute to arbitration but then you say arbitration clauses do not submit award enforcement in compliance to the jurisdiction of the arbitrators.
But you do acknowledge that you put up letters of credit for the purposes of supporting whatever award may or may not have come under the arbitration proceeding?
MR. HIGGINS: Yes, your Honor.
THE COURT: So, in that case, the question is whether the draw down or the letters of credit, whether or not it comes from the arbitrator comes from contractual agreement of the parties is binded in the treaties that are integrally connected with the arbitration proceeding.
MR. HIGGINS: Well, the underlying debt does, if there is an underlying debt. That comes from the underlying treaty and there is an agreement to arbitrate. And what we've assigned to the panel of arbitrators is the right and duty to decide the merits of the dispute. We haven't assigned any right of enforcement. And the cases are clear that arbitrators don't have the power to enforce their own awards. You have to go to the Court to do that. They couldn't issue a warrant. They couldn't ask a sheriff or a marshal to execute. And in this case the very nature of what the arbitrators awarded in the way of collateral is what the Courts have supported, which is a provisional remedy. The proviso of the provisional remedy is a judgment. It is so that the money will be there to

7

satisfy a judgment. If it can be paid over, either before or after an award, then it loses its provisional character and it becomes a final relief as opposed to a provisional relief because it's payment of money --
THE COURT: Let me interrupt.
Could not parties by a separate agreement, such as letter of credit agreement, provide among themselves that the letter of credit could be drawn down as enforcement of an arbitration award, whether or not the arbitrators so order or whether or not it is within the jurisdiction?
Even if it were not within their jurisdiction, could not the parties agree that upon the award the prevailing party could draw down a letter?
MR. HIGGINS: Of course, your Honor. The parties could agree but here they haven't. There is no --
THE COURT: Is that a matter of dispute then? And I think that is what I gather is exactly what the defendants are disputing. If that's the case then on what basis can this Court grant preliminary injunctive relief?
MR. HIGGINS: I'm not exactly sure what the agreement that the respondents are alleging was made other than --
THE COURT: That's why we have a factual dispute.
MR. HIGGINS: Well, I mean if there is an allegation that there is an agreement of course we have a factual dispute because I'm not aware of any. The citation --

8

THE COURT: You are also counsel to the plaintiff?
MR. HIGGINS: Here we are counsel to the plaintiff, yes; but the defendant is alleging this agreement and they haven't identified -- they haven't identified what it is. So I suppose there is disagreement in that way.
But the point is that the arbitration clause itself doesn't come close to assigning that right to the arbitration panel. It says that judgment on an award can be entered in any Court of jurisdiction and that's exactly what we think they should attempt to do, is enter judgment on the award, get the thing confirmed, and if they have a right to do that, and then take advantage of the collateral that was required to put up.
What they attempt here is very analogous to a Court giving a provisional remedy and then paying over the money to one of the litigants before entering a judgment. It would be the same thing. And I'm sure that that wouldn't appeal to your Honor in terms of the way that it should happen.
Now, could two parties agree that anyone, the Court or anyone else has the power to do that? Of course. But that would be a very unusual agreement and I should think that that should be very specific and shouldn't be -- one shouldn't look for that agreement in a normal arbitration clause or in a normal reinsurance or contractual relationship.
As I said, the cases are clear, arbitrators don't have the power to enforce their own judgments.

Now, in this case it is a compulsion. The award says pay within 30 days or lose the security. And they're the ones that put -- the panel ordered it put up as a provisional remedy and now the provision -- the judgment is being ignored.

So, that's what we have to say about that. I don't know whether it pays, really, to get in too much into the standards of irreparable harm and likelihood of success on the merits but we would say here --

THE COURT: Why don't we touch on the question of irreparable harm here, Mr. Higgins because that, too, is an important concern. To what extent is what you are concerned about really a question of dollars and cents?

MR. HIGGINS: Well, it is.

THE COURT: You put up money. They have your money. If they have wrongfully drawn down upon it and you prevail on the merits, you get it back, with interest. How is that irreparable harm?

MR. HIGGINS: Well, that, in itself, we would acknowledge isn't irreparable harm.

THE COURT: Then what is?

MR. HIGGINS: The abuse of the process itself. Because, as I said, if that can be done in this case that can be done in any case. You can order collateral security put up and then you can just willy nilly pay it over to the other side. There is nothing to stop you under this theory that the

defense has put forward. There is no requirement that there be an arbitration award. I mean, there is in this case but there would be no requirement that there would be.

THE COURT: But you are positing a set of facts that are not what is before the Court now. It is not a question of willy nilly. It is a question of whether there is a sufficient basis for a draw down upon there being at least a colorable arbitration award that the parties have gone through, the process, and at least a colorable basis under the treaties agreement for the draw down to occur before a judgment is rendered confirming the award -- assuming that that is the basis upon which the defendants are claiming that they have a right to the draw down before the confirmation of the award.

MR. HIGGINS: Well, the second point we would certainly dispute: That there is a basis in the contract. Because we are dealing here only with the arbitration clause.

The subject of the arbitration was to enforce the contract and we had some defenses to the contract so that is in quasi-judicial proceedings in the arbitration and now it is in judicial proceedings. And, yes, it is a matter of money. A letter of credit is always a matter of money. Other collateral is a matter of money.

If it is posted as a provisional remedy, as I say, if the proviso isn't getting a judgment, then it is always the case that there is no irreparable harm in taking it. It is

just money. I think that the irreparable harm is in, as I said, it is an abuse of the process. It is a violation of the provisional nature of the security itself. It is converting it from provisional remedy to a non-provisional remedy.

Now, as your Honor pointed out, there is nothing to stop parties from altering those relationships but it hasn't been done in this case. Nothing that the respondent has pointed to has indicated that there was any intent of the parties, or even at the time of the panel to make this other than a provisional remedy. And we suggest that that's the irreparable harm here.

In terms of success on the merits, we have referred to a few very serious questions here which don't go to the normal thing you might see which is that the arbitrators made a mistake of law or mistake of fact. Here, none of our defenses really relate to that. The most important one here is that they refused evidence and that is standard under Section 10, paragraph 3, of the FAA, and that section refers to that as arbitrator misconduct.

Now, you know, the other side cited some cases but those cases are easily distinguishable. Here it was our only witness on these points and it was rebuttal. And the cases cited against the three witnesses, this was offered as the fourth and the party offering them would not so much as indicate what is being proffered for and the arbitrators just

said it was cumulative and the Court supported that.

That's the main case in support of the defense against our position.

THE COURT: Let's discuss that for a moment because, again, the Court is familiar with the law in this case having itself rendered numerous opinions on the question of the scope of the arbitrator's determination of what is relevant and what is cumulative.

I think that the standard is fairly deferential on that issue. If an arbitrator denies evidence entirely to one side it is one thing. But if it is a question of whether the arbitrator, in good faith, believes that a particular proffer of evidence is cumulative, as you know, the doctrine on that is that the Courts are not going to second-guess arbitration awards. Otherwise, the entire process would be undermined.

MR. HIGGINS: Yes, your Honor. And our cases and our statements on that are more prophylactic than anything else. The arbitrators here did not find that this evidence was cumulative. And in fact that would have been a very difficult thing for any arbitrator to find.

This was our witness in rebuttal to the witness put by the petitioners below on the issue of damages -- several aspects of damages. And I don't think -- it was our only witness and what the panel said, it is indicated in the brief, is that they were going to deny us the right to put this

13

witness on and they were going to accept the numbers being put forth by the other side. And if they thought they needed more help after -- actually they didn't say it that way.

After they decided the substantive issues, they would come back to the parties. And in this case no one came back and we were prevented from putting on our only witness on really the only issue in the case which was how much we owe.

And so, it isn't cumulative and discretion stops somewhere. And I think that discretion has to stop well before this. We only called three witnesses. It isn't as if we dragged this thing on forever.

THE COURT: Isn't there some issue, Mr. Higgins, about the timeliness of the witness?

MR. HIGGINS: Well, two things, your Honor. There wasn't an order other than a preliminary witness list. It was never characterized as anything else. And so, we were certainly not on notice that we had any obligation to provide any other witness list, firstly.

Secondly, we did give notice a month before the hearing that we would be putting this witness on as a rebuttal witness. I'm not sure we actually used the word "rebuttal" but we did put in our papers a very lengthy exchange of correspondence. And I hope we don't bore the Court with all of it, but we made a very strenuous attempt to extract evidence of damages from the other side. And it only became apparent that

14

we weren't really going to be able to get sufficient evidence of damages from the other side that we decided we had to put on a witness.

We never had an expectation of putting on a witness because in these cases the accounting usually works itself out. Here, it never did. The other side never put on sufficient evidence and so we were forced to put on -- well, we were forced to attempt to put on a witness to straighten the situation out.

One of the most critical elements of it was there was very -- well, actually no evidence of distribution of cash position and what was put in was wrong. And we would have put a witness in that would have explained that and that would have caused a very dramatic $3 million shift in the award if it had been done properly. And we didn't have any witness on that because we were prevented from putting that in and we were prevented from putting exhibits in which would have been testified to.

THE COURT: All right. Thank you, Mr. Higgins. Why don't we give the defendants the floor?

MS. JACOBSON: Thank you, your Honor. The first thing I would like to address is the notion of the security and the issue of irreparable harm.

Contrary to what the petitioner's position is, the contract specifically deals with the posting of security.

15

That's annexed as Exhibit 1 to my declaration, specifically at pages 7 through 9. In that security provision Commercial Risk was supposed to post the entirety of the amounts that were shown to be owing; whatever my client told them was owing should have been posted.

If we turn to page 8 of the contract, that talks about when letters of credit can be drawn down. Essentially it says that if the reinsurer fails to discharge any of its payment obligations, any security that's been posted can be drawn down. It is an unconditional right to draw down security. It doesn't require going anywhere and that's what the contract does provide.

Now, if we turn to --

THE COURT: Is it your contention that that is what the arbitrator, in essence, interpreted the contract to say and ruled on?

MS. JACOBSON: That is our contention.

And, in fact, if we take a look at Exhibit number 5 to my declaration which is the actual order imposing the requirement that pre-hearing security be posted, we see in the order that the panel says that the security shall be in the form acceptable to Security Insurance Company of Hartford, i.e., a regulation 114-type security trust fund or a clean, irrevocable letter of credit, or cash.

And if we turn back to the security provision in the

16

contract, at page 7 at the very first paragraph it talks about a regulation 114 trust or clean irrevocable and unconditional letter of credit. That is exactly what the panel was doing. And, in fact, on the security motion we argued that this provision of the contract required the posting of security, among other things, including the disastrous financial condition of reinsurer here, Commercial Risk.

So, it is our absolute contention that the right to the security derives from the contract. It is unconditional and it commits us to draw down without any order of the panel.

Now, when the panel, however, issued its pre-hearing security order at Exhibits 5, it imposed an impediment toward the draw down. It said to us, We are going to require the posting of the pre-hearing security but you can't draw on it absent further written instructions from the panel.

So, that meant that we couldn't just draw down. It provided an additional impediment.

Now, that award was entered by the panel, it was not -- Commercial Risk didn't move to vacate it but what that award said was -- the only inference you can obtain from that order is that when the panel issues a written instruction to draw it down, it can be drawn down. There was no motion to vacated it.

That was the order of the panel and that is the understanding that certainly my client has vis-a-vis the whole

letter of credit issue, completely derived from the contract.
Therefore, it is the contract that is self-executing. It is not the final award.
THE COURT: A question: What is your contention with regard to whether or not the arbitrator's requesting the posting of pre-award security was permissible under the contract itself?
MS. JACOBSON: Well, very clearly, if we turn to the arbitration clause which is at page -- begins at page 15 and goes on to 16, and that's still in Exhibit 1, it says: Any dispute or difference between the company and any reinsurer relating to the interpretation or performance of this contract including its formation or validity, or any transaction under this contract, whether arising before or after termination, shall be subject to arbitration.
So, clearly, issues of the adequacy of letters of credit, etc., would be subject to arbitration. And also draw downs, if that was an issue.
And if we go down further in the arbitration clause also on page 16 it says: The arbitrator shall have the power to determine all procedural issues for the holding of the arbitration, including but not limited to inspection of documents, examination of witnesses -- importantly -- and any matter -- other matter relating to the conduct of the arbitration. The arbitrator shall interpret this contract as

an honorable engagement and not as merely a legal obligation. They are relieved of all judicial formality and may abstain from following the strict rules of law. The arbitrators may award interest and costs.
So, it is a very permissive clause. It gives the arbitrators expansive powers to determine the shape and the scope of the arbitration proceeding and the procedures that are to be followed in that proceeding.
THE COURT: Does that suggest that the issue of whether or not the arbitrators have the authority, which Mr. Higgins is challenging, to order some form of enforcement, is itself an arbitration issue?
MS. JACOBSON: Yes. I mean, we believe that this is a very expansive provision and I would like to --
THE COURT: Let me ask, was there any discussion or attempt at any time to bring this matter to the arbitration as an additional dispute between the parties? And by this matter I mean the plaintiff's challenge here or contention that the arbitrators did not have the authority to issue an enforcement order.
MS. JACOBSON: No, Commercial Risk did not -- did not go to the arbitration panel with that kind of complaint. In fact, the first time we heard of any such complaint was when we learned that there was a TRO application.
THE COURT: Well, is it your contention now that if in

fact there is such a dispute, it is one that should be brought back to the arbitrators?
MS. JACOBSON: I don't -- I mean, if they wanted to make an application to the arbitrators I suppose that they could. I think the word is plain and unambiguous and permits us to draw down.
And I might also point out Mr. Higgins spoke lengthily about the opportunity to go into court and get a judgment and how important that was. This arbitration clause says: The decision, in writing, of the majority of the arbitrators shall be final and binding upon both parties. Judgment may be entered.
Not requiring that judgment be entered in order for certain parties of the award to be effectuated, may be.
THE COURT: All right. Anything else?
MS. JACOBSON: If I might, I would like to discuss the exclusion of Mr. Passis as a witness.
I think the description of Mr. Passis' exclusion omitted certain items and was incorrect in certain regards. First of all, Mr. Passis was not on the preliminary witness list and did not show up until February.
Now, I think it is important to note that this arbitration was scheduled to go forward in December and all fact discovery had truly been ended in November. We were on the cusp of the arbitration hearing. I think two weeks before

the hearing we got word that Commercial Risk's party arbitrator was ill so the hearing got put off.
Okay. That's the very end of November we get that decision. Mr. Passis was not even on the radar screen and we were supposed to go to hearing within two weeks. In fact, the parties were already drafting their pre-hearing briefs; no mention of Mr. Passis.
If Mr. Passis and his testimony was so material we should have heard about him long before February.
Now, there was no realistic opportunity to depose Mr. Passis. Mr. Passis was not a percipient witness. He wasn't around at the time that all of the events took place.
According to Mr. Higgins at the hearing, and that's in Exhibit 14, page 1001, Mr. Passis was going to "authenticate certain statements that were being put in by Commercial Risk."
And specifically, when asked whether Mr. Passis' testimony might "affect the panel's view of what damage would be" the award -- the damages award should be, the response was It could be. And that's on page 1005. Not definitive.
In fact the umpire asked: So that's a purely hypothetical?
And the answer was: Yes.
That's all detailed, the transcript on Exhibit 14 to my declaration, page 1005.
Now, despite what Mr. Higgins said, the panel actually

took in Mr. Passis' damages exhibits, exhibits numbers 222 and 223, and that's at Exhibit 19 of my declaration at page 1206. And they were permitted, by the panel's ruling, to cross-examine -- to call for cross-examination one of our witnesses for a second time on those very same exhibits. And they did.

And lastly I would like to say that it is clear that the panel must have taken into account some of what was in those exhibits because we were not -- my client was not given all of the interests that it was seeking. It got only about one third. We don't know precisely what they did but, very plainly, they didn't buy what we said lock, stock and barrel.

We don't believe that Commercial Risk satisfies any of the prongs for a preliminary injunction. They can't show irreparable harm. We are only talking about money here and there is, in light of the fact that it is nearly insurmountable to wage challenge to an arbitration award on a motion to vacate, they don't show the second prong either.

Thank you.

THE COURT: Thank you.

Mr. Higgins, do you have another response?

MR. HIGGINS: I have a few responses or observations. Thank you, your Honor.

On the point of what was being ordered, it is pretty clear that we were not putting up a letter of credit under the

contract, we were putting up a letter of credit because we were told to by the panel, and that the constriction or restriction on the ability to draw down, though we don't agree with it, necessarily, was not something that we fought at that point because it protected the letter of credit. We would have had to have a crystal ball to ascertain that the panel would allow the letter of credit to be paid over before judgment because that's the standard by which the Courts permit arbitrators to require provisional remedies. There are no cases which permit arbitrators to make decisions on the merits without a hearing. And this arbitration clause certainly doesn't do that; allow --

THE COURT: Is it your view, Mr. Higgins, that there is nothing at all in the treaties and the contract between the parties that gave authority for the posting of pre-arbitration security?

MR. HIGGINS: Yes. That is our position.

THE COURT: So you think --

MR. HIGGINS: There is a letter of credit requirement in the ordinary course but in this case one can't really argue that that's what the panel was doing, because there is only a requirement for, in regulatory parlance, unadmitted or non-admitted security which, admittedly, to circle around, the Bermuda company was but the Vermont company was not.

So, the Vermont company was not required to post security but, nevertheless, the panel required security to be

posted by -- well, jointly the panel just called it Commercial.

And so, the panel wasn't -- obviously wasn't trying to enforce provisions under the contract and we don't believe that, without a hearing, we don't think that the arbitrators had the power to do that. Certainly not to order delivery of unencumbered collateral security as a provisional remedy

THE COURT: At any time did you challenge the arbitrator's authority to make such a requirement?

MR. HIGGINS: I'm sorry. I don't know what requirement your Honor is referring to.

THE COURT: The posting of the pre-arbitration security.

MR. HIGGINS: No, we did not challenge it. We put up the security. We challenged it in the first instance on motion but once we were ordered to do it, we put it up because we don't challenge the authority to, of the panel.

THE COURT: Could that be construed as a form of waiver?

MR. HIGGINS: Well, no, we don't dispute the power of panel to order provisional remedies. We think the law is fairly clear on that. But we do dispute the notion that that provisional remedy can be something other than a provisional remedy, something other than collateral security for, to securitize an eventual judgment. We certainly challenge that notion. And we would have, if they had ordered us to pay the

money over, we would have challenged it, of course. But it was in the form of letters of credit, it was delivered to counsel and not to the other party, which we insisted on, but it was done and there was the incumbents on it in terms of drawing.

I don't think anything has happened since that time which alters the character of the relief. And the only thing that's happened is that the panel has taken it upon themselves to not only render the award but satisfy it.

THE COURT: Anything else?

MR. HIGGINS: Well, just one minor point going back to the 'may enter.'

The reason it is 'may' is because there is no requirement to do it. It is just that if it can't be satisfied. Otherwise, it has to be entered and the 'may' language also refers to the fact that there are many Courts that may have jurisdiction and says it may be entered in any Court's jurisdiction.

So, I don't think that that has any significance in terms of statute.

THE COURT: All right. I thank you.

The Court has reviewed these papers closely when they were filed and the additional briefing that the Court received as of today. I have heard the arguments of the parties here at this proceeding. On this basis I am not persuaded that the plaintiffs have made out any of the prongs necessary to support

the granting of the application. I am not persuaded that the plaintiffs have indicated that they would suffer irreparable harm here.

In view of what is at stake -- which is essentially a money dispute -- the money dispute is literally resolvable by the party that may win on the merits ultimately paying back what may have been improperly drawn down, if in fact the plaintiffs were to prevail on the merits.

I don't see where that irreparable harm comes in. Plaintiffs indicate that their view of the irreparable harm enters in the issue of what they characterize as the improper or abuse of the process. Again, I'm not persuaded that that is the case here.

Under the applicable doctrine, the arbitrators have a fairly extensive latitude to interpret the scope of arbitration and make appropriate rulings concerning on that scope. Those determinations ordinarily are entitled to substantial deference by the Court except as has been indicated in the cases of clear abuse of legal acts or illegal acts or other forms of impropriety.

I don't believe that there is sufficient evidence that the standard has been met here.

On those grounds, the issue of whether or not the arbitrators improperly excluded evidence, in my view, has not been compellingly demonstrated to the point warranting the

extraordinary remedy not only of denial of the confirmation of arbitration award but also of granting of preliminary injunctive relief.

I also do not believe that the plaintiffs are likely to succeed on the merits given the language of the contract that is at issue here, the parties' agreements, and I also am not persuaded that there are sufficient issues going to the merits as to make the plaintiff's claims later on for litigation and the balance of equities tilting decidedly in the plaintiff's favor because the Court believes that in the reading of the contract that there is sufficient support in the underlying agreements for the posting of the letter of credit and for the draw down of the letter of credit absent a confirmation award.

To the extent that there is any dispute regarding that question, that, in itself, as the Court suggested earlier, may be an arbitrable issue that should be -- that would be within the scope of the arbitration dispute and should be resolved in that forum and not in this Court.

So, for these essential reasons, the Court will deny the plaintiff's application. If the parties seek any further litigation in this matter, they should confer and develop a proposed case management plan setting forth the time tables for any additional pretrial proceedings, and you should submit that to the Court for review and enforcement within 10 days of

today.

Thank you.

MR. HIGGINS: Thank you, your Honor.

MS. JACOBSON: Thank you, your Honor.

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